

THE DANN LAW FIRM Co., LPA

LAW OFFICE

April 23, 2015

Seterus, Inc.
PO Box 2008
Grand Rapids, MI 49501-2008

**Sent Certified U.S. Mail return receipt requested [7014 2870 0000 6446 3077]*

In the Matter of:

Borrower Name: Ann M. Svoboda
Property Address: 4853 W. 14th St.
Cleveland, OH 44109
Mortgage Number: 10152879

Re: Notice of Error pursuant to 12 C.F.R. § 1024.35(b)(11) for failure to comply with the requirements of 12 C.F.R. § 1024.41(c); Notice of Error pursuant to 12 C.F.R. § 1024.35(b)(11) for failure to comply with the requirements of 12 C.F.R. § 1024.41(c) in failing to notify the Borrower of their right to appeal the denial of their eligibility for any and all loss mitigation options

Dear Sir or Madam:

Please consider this letter to constitute a Notice of Error under 12 CFR Section 1024.35 of Regulation X of the Mortgage Servicing Act under RESPA, which became effective on January 10, 2014. These amendments implemented the Dodd-Frank Wall Street Reform and Consumer Protection Act provisions regarding mortgage loan servicing.

You must acknowledge receipt of this Notice within five (5) days thereof (excluding legal public holidays, Saturdays and Sundays).

You must advise us of your responses to this notice within thirty (30) days of receipt thereof (excluding legal public holidays, Saturdays and Sundays).

The written authority of the above-referenced borrower (the "Borrower") to our law firm for this Request is attached hereto and incorporated herein by this reference.

Under 12 C.F.R. §1024.35(b), the term "error" includes any error relating to the servicing of the consumer's mortgage loan. Please note "servicing" is defined in §1024.2(b), 12 C.F.R.

P.O. Box 6031040
Cleveland, OH 44103
(216)373-0539
(216)373-0536/Fax

THE DANN LAW FIRM 

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Page 2: Notice of Error for Improper Loss Mitigation Denial and Appeal of Denial of Loss Mitigation Options (Svoboda)

§1024.35(b)(11) provides that it is an error for the servicer to commit any error related to the servicing of the borrowers' loan.

This Notice of Error is in response to your letter dated March 27, 2015 (the "Letter"). A true and accurate copy of the Letter is enclosed herewith for your reference and review. The Letter stated that the Borrower was not eligible for any loss mitigation retention options pursuant to the loss mitigation application the Borrower had previously submitted.

The Letter provides that the Borrowers were reviewed for five (5) options: Repayment; Forbearance; Cap and Extend Modification; Home Affordable Modification (Tier 1); and, Mod24 Modification. The Borrower was denied for all such options. The Borrowers were not reviewed for any other options.

1. Notice of Error pursuant to 12 C.F.R. § 1024.35(b)(11) for failure to comply with the requirements of 12 C.F.R. § 1024.41(c)

The Borrower was denied for HAMP Tier I because the Borrower's "current payment, including principal, interest, taxes, insurance and home owners [sic] association fees (where applicable) does not exceed 31% of [the Borrowers'] gross monthly income which is a requirement of the program.

The Borrowers believe that Seterus has committed an error because the Borrower does not believe that they were reviewed for any and all loss mitigation options available as required by 12 C.F.R. § 1024.41(c). Specifically, Seterus wholly failed to evaluate the Borrower for eligibility under HAMP Tier II, which does not take DTI into account in determining eligibility, unlike HAMP Tier I.

The Borrower further states that Seterus's failure to adhere to the requirements of 12 C.F.R. § 1024.41(c) in failing to review the Borrower for any and all loss mitigation options available, specifically HAMP Tier II, constitutes an error pursuant to 12 C.F.R. § 1024.35(b)(11).

2. Notice of Error pursuant to 12 C.F.R. § 1024.35(b)(11) for failure to comply with the requirements of 12 C.F.R. § 1024.41(c) in failing to notify the Borrower of their right to appeal the denial of their eligibility for any and all loss mitigation options

12 C.F.R. § 1024.41(c)(1) provides that:

If a servicer receives a complete loss mitigation application more than 37 days before a foreclosure sale, then, within 30 days of receiving a borrower's complete loss mitigation application, a servicer shall:

- (i) Evaluate the borrower for all loss mitigation options available to the borrower; and
- (ii) Provide the borrower with a notice in writing stating the servicer's determination of which loss mitigation options, if any, it will offer

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to the borrower on behalf of the owner or assignee of the mortgage. The servicer shall include in this notice the amount of time the borrower has to accept or reject an offer of a loss mitigation program as provided for in paragraph (e) of this section, if applicable, and a notification, if applicable, that the borrower has the right to appeal the denial of any loan modification option as well as the amount of time the borrower has to file such an appeal and any requirements for making an appeal, as provided for in paragraph (h) of this section.

At no point in the Letter did Seterus notify the Borrower of their right to appeal. There was no foreclosure sale scheduled to take place within thirty (30) days of Seterus's receipt of the Borrower's loss mitigation application. As such, Seterus's actions in failing to notify the Borrower of their right to appeal the denial of any loan modification option by and through the Letter constitutes a violation of 12 C.F.R. § 1024.41(c)(1)(ii).

Seterus's actions in violation of 12 C.F.R. § 1024.41(c)(1)(ii) constitute an error in the servicing of the Borrower's mortgage loan pursuant to 12 C.F.R. § 1024.35(b)(11).

In total, the Borrower hereby asserts that Seterus committed at least two (2) errors in the servicing of their mortgage loan.

Accordingly, we hereby demand that Seterus perform an independent review of the Borrower's loss mitigation application pursuant to this appeal and immediately review the Borrower's eligibility under HAMP Tier II. Seterus must provide our office with a determination of the Borrower's eligibility under the program as well as any other loss mitigation options/programs available to the Borrowers under any of Seterus's external or internal programs.

Please correct all of these errors and provide us with notification of the correction, the date of the correction, and contact information for further assistance; or after conducting a reasonable investigation and providing the Borrower through our firm with a notification that includes a statement that the servicer has determined that no error occurred, a statement of the reason or reasons for this determination, a statement of the Borrower's right to request documents relied upon by the servicer in reaching its determination, information regarding how the Borrower can request such documents, and contact information for further assistance.

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Please be advised that for sixty (60) days after receipt of a Notice of Error, you may not furnish adverse information to any consumer reporting agency regarding any payment that is the subject of the Notice of Error pursuant to 12 C.F.R. § 1024.35(i).

Best Regards,

A handwritten signature in black ink, appearing to be 'M. Dann', with a long horizontal stroke extending to the right.

Marc E. Dann

Enclosures

cc: ebohnert@reimerlaw.com
dhaessig@reimerlaw.com

In the Matter of:

Borrower(s): ANN M SVOBODA

Property Address: 4853 W. 14TH STREET CLEVELAND, OH 44109

Mortgage Loan No.: 10152879

Re: Written Consent/Authorization for Requests for Information and Notices of Error

To whom it may concern:

I/We, the borrower(s), do hereby authorize and provide our written consent and authorization for

SETERUS, INC., the Servicer of the above-referenced loan, to fully cooperate with, comply with, and provide any and all information requested or demanded by and through any and all Requests for Information and/or Notices of Error pertaining to our loan, pursuant to the Real Estate Settlement and Procedures Act (Regulation X) and/or the Truth in Lending Act (Regulation Z) which may be sent by Attorneys Marc E. Dann, Grace M. Doberdruk, and Daniel M. Solar of The Dann Law Firm Co., LPA on our behalf. Said counsel represents us in any and all pending or contemplated legal matters concerning the above-referenced loan. Please respond to any and all such Requests and Notices at the following address:

The Dann Law Firm Co., LPA
P.O. Box 6031040
Cleveland, OH 44103

Signed: Ann M Svoboda

Date: 4/1/15

Print Name: ANN M SVOBODA

Signed: _____

Date: _____

Print Name: _____

seterusTM

PO Box 2008; Grand Rapids, MI 49501-2008

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SVOBODA, ANN M
c/o MARC DANN
4600 PROSPECT AVE
CLEVELAND, OH 44103

**Important information
regarding your request
for assistance.**

Loan number: 10152879, serviced by Seterus, Inc.

March 27, 2015

Dear SVOBODA, ANN M:

Thank you for your recent request for assistance with your mortgage loan. While your request was carefully considered, your loan could not be approved for assistance at this time for the following reason(s):

DECISION DATE	PROGRAM	REASON FOR DENIAL
3/6/2015	Repayment	Your loan does not meet the delinquency requirements of the program. (Eligible loans must be between 30 and 90 days delinquent.)
3/6/2015	Forbearance	You are not eligible for a forbearance plan at this time because you do not meet the eligibility criteria for an unemployment or general hardship plan set forth below. For an unemployment forbearance plan, you must be unemployed and meet all of the following: The property is your primary residence and is not vacant, condemned, or abandoned. You have not previously declined a forbearance plan. Your current mortgage payment exceeds the monthly mortgage to gross income ratio requirement. The plan does not result in you becoming more than 12 months past the contractual payment due date. If you are already on an unemployment forbearance plan, you did not meet one or more of the above eligibility

Seterus NMLS ID Number: 787641

THIS COMMUNICATION IS FROM A DEBT COLLECTOR AS WE SOMETIMES ACT AS A DEBT COLLECTOR. WE ARE ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. HOWEVER, IF YOU ARE IN BANKRUPTCY OR RECEIVED A BANKRUPTCY DISCHARGE OF THIS DEBT, THIS LETTER IS NOT AN ATTEMPT TO COLLECT THE DEBT, BUT NOTICE OF POSSIBLE ENFORCEMENT OF OUR LIEN AGAINST THE COLLATERAL PROPERTY. COLORADO: FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.COLORADOATTORNEYGENERAL.GOV/CA. Seterus, Inc. maintains a local office at 355 Union Boulevard, Suite 250, Lakewood, CO 80228. The office's phone number is 888.738.5576. NEW YORK CITY: 1411669, 1411665, 1411662. TENNESSEE: This collection agency is licensed by the Collection Service Board of the Department of Commerce and Insurance. Seterus, Inc. is licensed to do business at 14523 SW Millikan Way, Beaverton, OR.

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Seterus, Inc.
14523 SW Millikan Way, Suite 200
Beaverton, OR 97005

Business Hours (Pacific Time)
Monday-Thursday 5 a.m. to 8 p.m.
Friday 5 a.m. to 6 p.m.

SVOBODA, ANN M

March 27, 2015

Loan number: 10152879

DECISION DATE	PROGRAM	REASON FOR DENIAL
		requirements or you exceeded the maximum cash reserve requirement to qualify for an extension. For a general hardship forbearance plan, you must meet all of the following: You must be at risk of defaulting or be 90 days or less past due. Your current mortgage payment must exceed the monthly mortgage to gross income ratio requirement. We must be able to get a plan payment within the program parameters. In addition, you must meet at least one of the following: A hardship exists due to costs associated with certain drywall problems on the property securing your loan. The drywall must have been new when installed and installed between 2001 and 2008. You or a co-borrower is a U.S. service member injured on active duty, which is impacting your ability to pay your mortgage payment. You are unable to make your mortgage payment due to the death of a borrower or family member of a borrower who contributed at least 25% to the mortgage payment. You have a hardship due to a natural disaster against which you were not insured. You have an unavoidable reduction in income of at least 50%. You have an involuntary distant transfer of employment, including permanent change of station orders. You have a hardship caused by divorce or separation, and you were legally awarded the property. You have a hardship due to an illness against which you were not insured or have a pending settlement of a disability or major medical claim. You have a hardship but have substantial equity in the property, which is listed for sale.
3/6/2015	Cap and Extend Modification	Your loan does not meet the delinquency requirements of the program. Eligible loans are between 60 days delinquent to 6 months delinquent.
3/6/2015	Home Affordable Modification	You are ineligible for the Home Affordable

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SVOBODA, ANN M
 March 27, 2015
 Loan number: 10152879

DECISION DATE	PROGRAM	REASON FOR DENIAL
	Program (HAMP®)	Modification Program because your current payment, including principal, interest, taxes, insurance and home owners association fees (where applicable) does not exceed 31% of your gross monthly income which is a requirement of the program
3/6/2015	Mod24 Modification	Your current payment, including principal, interest, taxes, insurance and home owners association fees (where applicable) does not exceed the minimum percentage of your gross monthly income, which is a requirement of the program

You may have other options to avoid foreclosure. If any of the following applies to you, call us today at 866.570.5277 to see how we can help:

- Your circumstances have changed since your original request for assistance.
- You can provide additional documentation to support your request for help.
- You would like information about other alternatives to foreclosure.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is The Federal Trade Commission, Equal Credit Opportunity, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

Our credit decision was based in whole or in part on information in a credit report from Equifax, a consumer credit reporting agency. While the information was provided by the agency, the agency played no part in our decision and is unable to supply specific reasons for our decision. You have a right under the Fair Credit Reporting Act to obtain a copy of your credit report from the agency. The report will be free if you request it within 60 days after you receive this notice. You also have the right to dispute the accuracy or completeness of any information in your report with Equifax. You may contact them by phone at 800.685.1111 or by mail at Equifax Credit Information Service, PO Box 740256, Atlanta, GA 30374.

Eligibility for assistance is at our discretion and not all applicants qualify. We cannot guarantee that you will receive any assistance or a particular type of assistance. This letter should not be construed as a

SVOBODA, ANN M
March 27, 2015
Loan number: 1Q152879

waiver of our rights or the loan owner's rights under the loan documents and any state or federal laws to collect amount owed on your loan.

The Homeowner's HOPE™ Hotline, 888.995.HOPE (ask for "MHA Help"), provides information on foreclosure prevention. We urge you to become familiar with options that may be available to you.

If you have any questions, please contact us at 866.570.5277. For borrowers having difficulty making payments, we have loan specialists available Monday-Thursday 5 a.m. to 9 p.m., Friday 5 a.m. to 6 p.m., and Saturday 9 a.m. to 12 p.m. (Pacific time). Saturday hours may vary.

Sincerely,

Seterus, Inc.

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PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE**CERTIFIED MAIL®**

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or PO Box No.

City, State, ZIP+4

PS Form 3800, July 2014

See Reverse for Instructions